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a deprivation under the state constitution. It really cannot be justifiable to hold that due process means one thing in the state constitution and another in the federal constitution, in spite of what Judge Werner seems to say. Fortunately the Supreme Court of the United States has taken a more liberal view of constitutional questions than that taken by the New York Court of Appeals. The Court of Appeals, however, has had a change of viewpoint since the decision in the Ives case was rendered. The new attitude of the court may be seen in such cases as *People* v. *Klinck Packing Co.*, 214 N. Y. 121 (upholding the "one day of rest in seven" law); *People* v. *Crane*, 214 N. Y. 154 (upholding a law providing that only citizens shall be employed upon public works); *People* v. *Charles Schweinler Press*, 214 N. Y. 395 (upholding a law providing that no woman shall work in any factory before six o'clock in the morning or after ten o'clock in the evening); which, although not directly opposed to the decision in the Ives case, show a readiness to consider actual conditions as well as "purely legal phases." The same thing may be said of *Matter of Jensen* v. *Southern Pacific Co.*, 215 N. Y. 514, in which the present workmen's compensation law of New York is upheld.

AUSTIN W. SCOTT.

THE PRINCIPLES OF LEGAL LIABILITY FOR TRESPASSES AND INJURIES BY ANIMALS. By William Newby Robson. Cambridge, England: Cambridge University Press. 1915. pp. xvi, 180.

This exhaustive discussion of the English cases on liability for animals is another example of the convenient English practice of treating small sections of the law in small compass. It can scarcely be said to add anything of import to the store of learning upon this anomalous and unsymmetrical branch of the law, but as a handy digest of English case law on the subject it fulfills a purpose.

It is divided into three parts. The first, on the classification of animals, points out differences in this classification for the purposes of property law and of tort liability, which have generally been obscured by the use of similar terminology. The second deals with liability for the wrongful entry of animals upon land. The third and major part of the book examines at some length the law as to the liability of the keeper of animals for injuries inflicted by them upon the person or property of others.

At the very beginning the author attempts to demonstrate that the keeping of a known dangerous animal is the wrong which constitutes the basis of the liability. This is a view which finds considerable support in the authorities both in England and the United States. Thus, contribution has been denied between the joint owners of a vicious ram which had inflicted an injury for which one had been compelled to pay. (*Spaulding* v. *Adm'r of Oakes*, 42 Vt. 343). It is submitted, however, that it is an error springing from the practice of our law to disguise by fictions of fault liabilities not based on fault at all. One who keeps a known dangerous animal is not *per se* guilty of any legal wrong, but is made responsible for the injurious acts of the animal for reasons of policy similar to those which underlie his responsibility for the torts of his servant. The wrong is the act of the animal, for which the owner or keeper is made vicariously responsible. Otherwise nothing but the act of the injured person in bringing the injury upon himself should excuse the owner, unless, indeed, it be contended that an intervening act of a third person or a *vis major* renders the wrongful keeping remote as a cause of the injury. If this be so, however, the escape of the animal without fault on the part of the owner should have the same effect. As a matter of

fact, the keeping the animal is not the proximate cause of the injury, and it is not for that that the owner is held liable.

With more show of success the author takes occasion to oppose Mr. Salmond's attempt to include the owner's liability for the wrongful entry of his cattle upon land under the general principles governing the liability for damage caused by domestic animals. He points out that the owner is not liable for injurious acts of domestic animals flowing from their natural propensities, although such acts may have a tendency to cause damage. Thus the owner of a cat is not liable for its attack upon a dog, in spite of the well-known hostility between the two animals. (*Clinton* v. *Lyons & Co.*, [1912] 3 K. B. 198). It is only for the injurious acts of domestic animals flowing from an unnatural propensity of which he has *scienter* that the owner is liable. Hence the liability for trespass by cattle must rest upon the peculiar principles of the law of trespass, rather than any general principle of liability for the acts of domestic animals.

The book also contains an interesting, though not very clarifying, discussion of the confusion in the cases with regard to the evidence necessary to prove *scienter*.

The book suffers most from unnecessary repetition and verbosity, a defect which is only partly remedied by the use of different forms of type to set off the general principles of the law from the detailed discussion of the authorities.

CHESTER A. MCLAIN.

THE PREVENTION AND CONTROL OF MONOPOLIES. By W. Jethro Brown. New York: E. P. Dutton and Company. 1915. pp. xix, 198.

Published just as our Federal Trade Commission is beginning its task of supervising the business practices of industry in the United States, this book has unusual interest for Americans. It is an examination, by a jurist who combines theoretical insight and originality with practical experience, of the workings of Australian legislative and administrative regulation of industry.

Competition Dr. Brown conceives to be both a desirable and an enduring element in modern industry. The problem is by regulation and administration to moralize competition. The Preservation of Australian Industries Act, designed to accomplish this end, is based in part on our Sherman Law. But it shows a more practical realization of the concrete ends aimed at. It prohibits any contract or combination in restraint of trade, or injurious to Australian industry, by means of unfair competition; and it is specifically made a defense that there was no detriment to the public, or that the restraint was reasonable. Unfair competition is not left undefined, as in our Clayton Act; competition is unfair if the participant is a commercial trust, if the competition results in inadequate wages, disorganizes industry, or creates unemployment, or is conducted by means of rebates. Refusal to supply services or sell goods to a person on the ground that he deals with a third person, or refuses to join a combine, is made illegal.

Administration of the law, the author believes, is seriously hampered by the conflict of state and federal control, and a more accurate delimitation of the legal boundaries is called for. The prohibitions of the act, also, he believes, could with advantage be made more specific. Above all he emphasizes the need of taking the enforcement of the act out of the hands of the Attorney General, and placing it in the hands of an administrative commission beyond the suspicion of partisanship. The creation of the Inter-State Commission in 1912 has only in part filled this need, for it has been so heavily burdened with duties unconnected with the control of monopolies and the regulation of